

In the Consistory Court of the Diocese of Leeds (West Yorkshire and the Dales

In the Matter of the parish church of KILDWICK, ST ANDREW, and

**In the Matter of a petition dated 20 December 2014 presented by Rev. Robin Figg
(Vicar), and Mrs Lesley Hudson and Mr John Mitchell (churchwardens).**

Before the Acting Chancellor, His Honour John W. Bullimore

Judgment

1. This is my determination of the issues raised by the petition, and the objections raised by Vivienne Midgley, Keith Midgley, and Christopher and Marion Law (joint objection).
2. **PROPOSALS:** The *main* object of the proposed alterations to the interior of this Grade 1 listed building situated in the Kildwick conservation area, is the creation of greater space between the pews in the nave and the front of the raised dais on which the small nave altar stands. This object (no. 1 on the Schedule of Works) is to be done by removing part of the solid pew platforms, and moving the three front crenelated pews and the pew front on either side of the central aisle, back, into a space currently occupied by a similar number of plain pews immediately behind. These will be removed to allow the relocation of the front pews, and disposed of, or the wood used on some other project. (This is not quite the proposal outlined in the petition, which appears to involve removal of the front three pews themselves – the more highly decorated ones – and moving the pew fronts back, but I understood from English Heritage’s letter of 27th August 2014 that the more sophisticated proposal I have set out, which relocates the decorated pews, is the one that is actually planned). A new stone floor will be created.
3. In addition the petitioners wish to make the following alterations:
 - 2) to relocate the eagle lectern further west next to the first pillar on the south side of the church
 - 3) improve the step from the nave to the north aisle (there are two steps up to the aisle itself and another rise to the pew platform, as can be seen from a photo on the notes relating to the DAC visit on 23rd October 2013)
 - 4) re-install the front pew panel to the pews in the north aisle, in line with the relocated pew fronts in the centre, and remove the surplus pew platform and replace with a new stone floor
 - 5) remove 8 pews in the south aisle, and relocate the pew front, so that too lines up with the relocated fronts in the centre, and turn three of the 8 pews to face across the church
 - 6) replace two pews in the ‘children’s corner’ in the north aisle and create a similar space in the south aisle for that purpose. (Because the north aisle is raised up and accessible only by steps, those with small children and

pushchairs and so on, find it difficult to get to the present designated area, and can more easily get to an area off the south aisle; this re-arrangement will also move the children further from the area in the western end of the north aisle, currently used by the music group).

4. The proposals are set out in drawings prepared by Buttress Architects Ltd and in particular an annotated plan of the area affected (at the front of the nave area) is designated 7576.(04) 02. The overall cost of all the works is put at a little over £25000 of which about 80% is available.
5. **THE PARISH:** Kildwick is a small community in the Aire valley, roughly midway between the towns of Skipton and Keighley. The parish serves approximately 3500 in the village and two other neighbouring communities, and the congregation is drawn from these and also a number of other places in the vicinity. Its worship centres on a 10.00 am Eucharist attended by 40-45. Kildwick has a VC Primary School adjoining the churchyard to the east, and a few metres to the north runs part of the Leeds/Liverpool canal. The land on which the church stands slopes up towards the north, hence the fact the north aisle is at a higher level.
6. **THE HISTORY OF THE CHURCH:** I visited the church on 17th March 2015 for a site visit, and met one of the petitioners, Mrs Hudson, who showed me round. I also then obtained a copy of a *Guidebook* by Alec Wood, first prepared in 1963, revised in 1988, and subsequently further revised with some minor changes. It carries a commendation by Mr Figg, which is however undated. The ancient history of the building is not necessary to describe, but remains of pre-Norman stone crosses were uncovered in restoration work in 1901. There was certainly a stone church on the site in the Norman period. Substantial re-building took place in 1320 with lengthening of the structure to the east. For some reason the church was further lengthened in the 15th and 16th centuries to the east, and overall the church currently stands, according to Mr Wood, at 145 feet. It is known as the Lang Kirk of Craven, and its extraordinary length is apparent to the visitor, and makes the structure seem rather low when seen from outside. The nave is some 6 bays long; there is no chancel arch, but a (replacement) screen was introduced in 1903 at the junction between nave and chancel, and then there are a further 4 bays to the east forming the chancel itself, with stalls arranged in two blocks on the north and again on the south sides, collegiate-style. The Curren chapel stands in the north-east portion of the chancel and vestries to the south side. There was further restoration in 1868, including the introduction of an organ, and it seems the present pews of the nave were introduced at that time (Wood p12), re-placing earlier box pews. During the 1970's or 1980's, it is not clear exactly when, a small dais was introduced in front of the chancel screen, on which stands a small altar table for use at the Eucharist. There are no communion rails and some communicants stand at the step to the raised dais, while others choose to

kneel, while receiving the consecrated elements. I measured the distance between the front of the dais and the edge of the pew platform. It was some 33 inches or 84 cms. I will comment about this below.

7. There is a full Statement of Significance available. Since my visit I have acquired a volume by Rev E W Brereton MA, published in 1909, entitled *History of Kildwick Church*. He was the incumbent from 1901- 08, when he left, following an exchange of livings with Rev J W Rhodes of Whaplode in South Lincolnshire. His arrival coincided with a major restoration, which had been contemplated under his predecessor, but really got under way during his vicariate and lasted into 1903. The well-known Lancashire architects Messrs Austin and Paley were involved in this work, but their efforts here receive only a footnote in the recent English Heritage volume celebrating their work. As I have indicated, the church has a central aisle and there are aisles to the north and south sides as well. The tower stands at the west end, and the font with its elaborate cover is also located at the west end, but offset to the north.
8. **COMMENTS ON THE AREA PRINCIPALLY AFFECTED:** The third chapter of Mr Brereton's volume describes in great detail the extensive work undertaken in 1901-3, with lots of names of those involved, and the costings. A huge amount was done first in the chancel, including re-building of the pillars, most of which seem to have stood by faith rather than on secure foundations, and a new roof placed over the north aisle thereof. Work to the nave began in September 1902 with removal of the pews. All but two pillars of the nave were also taken down and re-built (see pp 43 and 44). In April 1903 a heating system was put in, and in the following month, a new floor was laid and the pews re-fixed (ibid). It appears that the new pew platforms were constructed of concrete over rubble, with wood block flooring and with stone edgings. In his description of the church, Mr Brereton says (at p.20): *'The (nave) seating is chiefly modern, but there are several portions of Jacobean character, one part dated 1631'*. The *Guidebook* refers to a number of features of interest carved into older wood furnishings elsewhere in the church, chiefly the chancel. What was 'modern' in 1909, being only about 40 years old, has taken on a far-more venerable character in the 106 years since, and generated academic interest (see below). I shall now concentrate on the area of the church most affected by the main proposal.
9. **LATER EXPERT OPINION:** The historic and artistic nature of the pew fronts was reinforced by reference to a book entitled *Pews, Benches and Chairs* edited by Trevor Cooper and Sarah Brown, published by The Ecclesiological Society in 2011. I have read the passages referring specifically to Kildwick at pages 114ff, in an article by Charles Tracy, and seen the accompanying helpful photographs. It is apparent that the author was involved in some capacity in the previous re-ordering proposals, which were eventually

withdrawn in 2010 or thereabouts. (I have not seen the papers from that application, but am aware of what was proposed at that time.).

10. From Tracy's paper it is apparent the proposal then was to remove *'portions of the mid-nineteenth-century benching at the front of the nave.....along with the twentieth-century benching behind it, (which) incorporated decorative panels from the now almost wholly destroyed seventeenth-century box pews. The chancel choir benches and stalls, which were again a mixture of seventeenth- and nineteenth- century components, were also due for removal. They contained on their fronts more of this important collection of seventeenth-century West Yorkshire panelling from this same source. Such incorporation is a good example of the Victorians' desire to conserve the art of the past.....With regard to the implications of the reordering proposals at Kildwick, it was important to weigh up the value of this collection of vernacular seventeenth-century decorative panelling, incorporated in the assorted mainly nineteenth-century furniture forms. The latter, per se, are of unexceptional artistic value, but perhaps deserved to be retained mainly for their utilitarian function as display frames. The same can be said of the mid-nineteenth-century nave front benching, with its display of seventeenth century panels. The rest of the nave benching was well made, functional, but of little intrinsic interest. Assuming the significance of this eclectic assortment of pews and congregational benching was challenging but it was clear that the dismantling of the later panel frames would have put at risk the conservation of this uniquely important collection of regional vernacular carved panelling. It is only because this material had been re-used in this way as part of the church's furnishings, that its art-historical value had been overlooked. Such inspired incarceration had saved it from destruction'*. It is fair to note that Mr Tracy had specific appreciative comments to make about other pieces within the church, including the choir stalls, the Eltoft family pew, and a chest, but these areas of interest are unaffected by the current petition.
11. The proposals to which Tracy was addressing his comments are not the same as those I have to consider. Those were much more far reaching and involved removal of large amounts (if not the entirety) of the historically important furnishings in the nave and chancel from the church, as well as the plainer 1860's pews. The present proposal (which I will consider first), is completely different in scale and effect, involving the removal of three rows of plain pews on both sides of the central aisle which date from the 1860's re-ordering, and the moving back of the front three more decorated pews, together with the pew fronts with their insets of Jacobean panelling (illustrated in the photographs on page 115 of Tracy's paper). Nothing in what Tracy says indicates the pews to be removed are other than *'of little intrinsic value'*, although *'well-made'* and *'functional'*. I accept Mr Tracy's evaluation of the area affected.

12. Rule 8.6 of the Faculty Jurisdiction Rules 2013 lays down that where an *application involves the alteration of an article of special historic....or artistic interest; the alteration....or re-ordering of a church in a way that is likely significantly to affect the setting (of such an article) or the movement (of such an article) such that the article might be adversely affected unless special precautions are taken, the chancellor must seek the advice of the Church Buildings Council* (adapted for clarity). 'Article' includes part of the structure under the Rule, like windows or pews, not only 'loose' items. The pew fronts, (and possibly the decorated pews) plainly fall under this Rule. At one stage of my consideration, I was concerned that there had been no formal reference to the CBC as mandated by this Rule, but it is clear from their letter of 29th July 2014, that they had given careful consideration to the proposals and were able to support the proposal to retain the pew fronts but relocate them. I am therefore satisfied that there has been adequate consideration by the CBC on the proposals – see Rule 8.6(3).
13. **DAC:** The DAC certificate of 9th December 2014 recommends the proposals, subject to conditions as to the craftsmen to be involved and consultation with the DAC archaeologist if necessary.
14. **AMENITY SOCIETIES:** I have already set out the CBC's views on the proposal. The SPAB describes the general proposals for the nave as '*thoughtful and sensible*', but expresses some reservations about other parts of the overall scheme, especially in regard to the south aisle (see below). The Victorian Society felt that the removal of a limited number of pews from the front of the nave was '*not something to which the Victorian Society was likely to object*'. This was '*minor*' work. English Heritage in their letter of 7th August 2014 supported the relocation of the crenelated pews and pew frontals, '*but would expect the work to be done by craftsmen with a proven track record in working with historic woodwork in highly graded buildings*'. They do not object to the trimming of the pew platforms and the laying of new stone floor.
15. It is plainly for the petitioners to justify the changes they want to make. One starts with the presumption that listed buildings should be left as they are, and that is even more so, when the listing is Grade 1. Nonetheless, as a matter of common knowledge, changes are indeed made even to such buildings when a sufficient case is made out.
16. **PETITIONERS' JUSTIFICATION:** The Statement of Needs indicates the improved space in the central area will make it easier for people to approach the central platform. The present arrangement causes great difficulty during administration of communion, especially when people are kneeling. Anyone in a wheelchair can only be brought to the centre of the dais. They rely on advice from the Council for the Care of Churches (now CBC), indicating that '*the altar.... needs (its) space. Very often the best reordering of a church involves simply the removal of excess furniture.....*'.

17. Removing part of the pew platform in the north aisle and putting down a stone floor will enable the choir to face the congregation rather than just across the church, and will make the area safer. The step arrangement will be made safer.
18. Although there is presently no children's work on Sundays, and children's work is done at other times in the nearby parish rooms, relocating the children's area to the south side will provide less of a distraction for the choir (when in the future children are present). I have already noted the easier access when steps do not need to be negotiated.
19. There is no specific explanation for moving the eagle lectern forward (west) to the pillar, but they explain the changes to the choir area on safety grounds, and to improve the help the choir can provide to the congregation. The south pews will be placed in line with the other relocated pews and pew fronts.

20. OBJECTIONS:

Mr Midgley believes the application is driven only by a few people;
some of them do not live in the parish;
this is the start of more radical reordering proposals to be effected by stealth;
there is no pressing need and it will isolate the sanctuary, choir stalls (presumably those in the chancel) and high altar;
there are other more pressing needs – heating, maintenance and building up the congregation;
there is a danger of short-cuts being taken in the quality of the work;
simple changes (not specified) could help stem the diminishing congregation.

Mrs Midgley says the previous judge (His Honour Judge Walford, the Chancellor of the Bradford diocese, in which Kildwick stood before the creation of the 'big' diocese in April 2014,) had said in relation to the previous petition, that no alterations should be carried out that could not be reversed;
this is a waste of funds having regard to the needs of the lighting, heating and general maintenance that have been neglected;
criticisms or alternative suggestions were ignored;
the desire to spend money on unwanted alterations has caused much unhappiness and driven many away;
those who put forward these proposals are small in number and unelected, and unrepresentative of local opinion;
any antiquities removed, should be retained;
any alterations allowed must be done to the highest standard.

Mr and Mrs Law object to any alterations being carried out to this beautiful church;

do not understand why a few people can say what happens, when the majority do not live in the village;
have lived in the village for 44 years, support many activities there, and been strong member(s) of the congregation in the past; everyone spoken to objects to the pews being taken out;
most people are unaware of what is proposed.

21. I have read a lengthy response on behalf of the petitioners.
22. Before setting out the legal framework within which I must decide the application, I have to say that some of these objections really are based on misunderstanding about the legal and factual position.
23. Plainly, those who are members of the church congregation and on the electoral roll, have a proper place in decision-making, even if they happen to live outside the parish.
24. The PCC are elected at regular intervals (a maximum of three years), and have supported the proposals; they are representatives of the congregation and parish. They cannot sensibly be described as 'unelected'.
25. Parishioners are entitled to make their views known, *and have them properly considered*, even if they are not church members. That is part of the exercise I am carrying out.
26. I find it impossible to believe that people are in ignorance about these proposals; the proper notices have been put up outlining the proposals, and in my experience, where objections are held by some, they are quickly spread about; the objectors do not keep quiet about them. The fact is that only five people were sufficiently stirred to write to the Registrar to complain (one being subsequently held not entitled under the Rules to be an objector). Perhaps others felt the outcome was a foregone conclusion and so did not bother, but not using the statutory procedure to register objection and try and influence the outcome, leads to a failure of the process from the outset.
27. In the end, the chancellor has to be persuaded about the proposals, or any others that may be put forward in the future; they cannot be carried out 'by stealth'. There are plenty of watchmen, including English Heritage and the amenity societies, as well as the archdeacon, the DAC and local people, to watch out for anything being done which should not be.
28. I am sure Chancellor Walford was concerned about the wholesale nature of the previous proposals. Reversibility is always an issue to have in mind, but almost any changes will to some extent not be reversible in the future. The proper approach as adopted since 2013 will be set out below.
29. Mr Midgley talks about isolation of the east end. Frankly the east end in this church will always be a long way from the nave. For many years past, the celebration of communion has centred round the nave altar. The important thing therefore is to concentrate on making the area round the dais as suitable as possible for the central rite of the Church, including the participation of the communicants.

30. The priorities for dealing with any problems faced by the church (heating, lighting, maintenance and so on) have to be set by the PCC. It is for them to decide how the funds they hold on behalf of the congregation as a whole, are to be expended. The chancellor should only interfere with such decisions if it seems the PCC are far too optimistic in their fund-raising aims, or are otherwise unlikely to be able to carry their proposals through. That is not the case here.
31. **LEGAL FRAMEWORK:** The framework or approach now adopted for making decisions on such applications was adopted first in the case of *Duffield, St Alkmund* in 2013, a decision of the Court of Arches, the church's court of appeal in faculty matters. This seminal case declined to follow any longer the previous guidelines in the case of *In Re St Helen's Bishopsgate* (unreported, but adopted in many cases). This new approach has been recently affirmed in another case in that court, namely *Penshurst, St John the Baptist* in 2015 at para. 21, as follows:
32. 1) *Would the proposals if implemented, result in harm to the significance of the church as a building of special or historic interest?*
2) *If the answer to question 1) is 'no', the ordinary presumption in faculty cases 'in favour of things as they are' is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals..... questions 3), 4) and 5) do not arise.*
3) *If the answer to question 1) is 'yes', how serious would the harm be?*
4) *How clear and convincing is the justification for carrying out the proposals?*
5) *Bearing in mind that there is a strong presumption against proposals which will adversely affect the character of a listed building...., will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering question 5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm to a building which is listed Grade I or II*, where serious harm should only exceptionally be allowed.*
33. Paragraph 22 of *Penshurst* indicates that the chancellor has to consider first what is the special architectural and/ or historic interest of the church. Like that church, it can fairly be said: *'Kildwick is a medieval church, wearing, particularly in its interior, Victorian clothes'*. I have difficulty in knowing how much further I ought to go. As I have already described, and is set out also in the Statement of Significance, the building has gone through several stages of rebuilding, even as recently as 1901-3, and restoration of parts of its main

structure, like pillars and parts of the nave roof. It has significant furnishings where these survive from earlier periods, sometimes incorporated into later woodwork. The part affected by the *main* proposal, is the central area of the church. What will be lost there if permission is given, is part of the pew platform, perhaps 6 to 8 feet or so, and three plain pews on each side, dating from the 1860's, which are not considered by Mr Tracy of any intrinsic merit – a view I agree with. The platforms should be considered in the same way. I note also that the starting point is a consideration of the particular Grade of the church: here it is Grade 1.

34. Turning to question 2), there is some harm, within the meaning of the word in this context, so I have to go to question 3). I cannot put the level of harm at more than low to moderate, and on this fairly indeterminate scale, in my view it is nearer low than moderate. Obviously moving the front pews back away from the dais will be visible but the effect on the significance of the listed building is small. Nothing of value will be lost in my estimation. Careful steps are being taken to preserve all the significant furnishings of the pew fronts and decorated pews.

35. I turn to the justification – question 4). Although the dais has been in its present position for perhaps 35 years, and I have received no evidence of accidents as such, I have to say that the present configuration in front of the dais seems to me quite unacceptable. Communicants are crowded together. Any movement to either side of the central aisle must put communicants in very close proximity to one another, and anyone passing behind someone waiting to receive communion, must be inconvenienced by outstretched feet or simply the bulk of the other person, if that individual is standing to receive. Any wheelchair user cannot pass to either side, and the wheelchair has to be turned to return down the central aisle. I repeat what I said earlier, the distance between the edge of the dais and front of the platform, is only 33 inches or a little over 80cms. That is far too little for comfort or ease; people should not feel pressed in or have to make a conscious effort to avoid physical contact with other people, when they should be preparing to receive the elements in a reverential way. There are a huge number of pews in this church; the loss of this small amount of seating cannot possibly affect the ability to hold services with large congregations, and can have no effect on the needs of the Sunday congregation.

36. I pass to question 5). I can see no real disadvantages in this main proposal, and it will be of positive benefit to the congregation in its liturgical life and in the celebration of the sacrament. I find that the justification for this change is well based, and the low to moderate harm to the significance of the listed building it will cause, is far outweighed by the prospective benefits.

37. **MINOR ITEMS:** I move now to the five other more minor proposals, and intend to deal with them shortly, (and in a somewhat different way). The assessment of the architectural value of the church remains as above.

Moving the lectern. This item was donated in around 1875 in memory of the donors' parents. It is a substantial and heavy item, but in principle it is movable, and should be used for its intended purpose as and where it is convenient to do so. Moving it forward in my view hardly ranks on the scale of harm at all. It is very minor. I am more concerned lest in authorising the move, as I will, I should be taken to anchor it in another place from which it should not be moved without a faculty. It seems to me that as a matter of common sense, the petitioners, and in practice it will mean the incumbent, should be authorised to use the lectern as is convenient from time to time, in the area between the front of the relocated pews and pew front, and the line of the dais, subject to any direction from the archdeacon.

Improving the step from the nave to the north aisle, removing the pew platform where the choir are located, laying new stone floor, and relocating the pew panel in front of the north aisle pews: All this is very minor in the scale of harm. It will be of benefit to the choir and congregation, both in terms of what the former contribute, and in terms of safety and ease of access. Replacing the pew panel – I have no idea why it was ever removed - will match the relocated pew fronts in the centre and produce a symmetrical appearance. The proposals are justified, and I see no real disadvantages.

Relocating the children's corner from the north aisle to the south: In principle the need for this facility has already been accepted, but the present position requires access up two steps, and at a different level therefore from the main floor. That is not sensible. In addition the relocation will move the children away from the choir area, so they will not distract the choir. Again any harm is very minor, and on the north side the gap in the pews will be filled in.

Removing 8 pews from the east end of the south aisle, and re-arranging three to face the centre of the church. This change is again minor, but its main, if not sole, proposed justification is to line up the pew front there with the other pew fronts in the centre and north side. However EH, SPAB and the VS, all draw attention to this item as being justified on the ground of visual balance, and that the pews are redundant, by which I understand they are not in practice used. I have come to the view this justification is insufficient. There should not be any interference with the Grade I building, unless there is clear and sufficient justification. I do not find that that has been established. This part of the petition – alone – is refused.

38. The objections of the named persons are therefore dismissed, save in relation to the pews in the south aisle.

39. **ORDER:** A faculty will therefore pass the seal, for items 1) to 5) on the petition, in accordance with the drawings submitted from Buttress Architects Ltd, but

strictly on the basis item 1) is to be carried into effect by the removal of three plain pews and the relocation in their place of the decorated or crenelated pews on each side of the central aisle, and associated pew front, and

item 2) is granted on the basis that the relocated lectern may be used as from time to time judged convenient in the area between the relocated pew fronts and the line of the dais, subject to any direction from the archdeacon.

Item 6) is refused.

The work is **to be carried out within 24 months** or such further time as may be allowed, and **on condition** as follows:

- i) the petitioners use craftsmen with a proven track record in working with historic woodwork in highly graded (listed) buildings
- ii) there is consultation with the DAC archaeologist if any ground disturbance is involved inside the church.

The petitioners must pay the costs of the Registrar, in a figure to be approved by me, and the payment thereof will be a pre-condition of the issue of the faculty.

Liberty to apply for directions in carrying this Order into effect.



John W. Bullimore

Acting Chancellor

2nd April 2015